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IN THE

Supreme Court of the United States

October Term, 1949
Nos. 248 and 249.

No. 248

JOHN HOWARD LAWSON,

Petitioner,

vs.

UNITED STATES OF AMERICA.

No. 249

DALTON TRUMBO,

Petitioner,

vs.

UNITED STATES OF AMERICA.

Motion by Certain Members of the Los Angeles Democratic County and State Committee for Leave to File Brief Amici Curiae in Support of Petition for Rehearing.

The undersigned are members of the Los Angeles Democratic County and or State Committee of the State of California. As members of a political party, we are concerned with any abridgements of the right of citizens to exercise the franchise or to belong to political parties of their own choosing. The issue raised in this proceeding concerning the power of a Congressional Committee to compel under oath the disclosure of an individual's political association appears to us to have broader implications than the case itself. For this reason, we are making

this motion for leave to file a brief *amici curiae* in support of the petition for rehearing. We urge this Court respectfully to delimit for the benefit of the country the scope of governmental power and the citizen's liberties.

Consent to the filing of the brief has been given by the attorney for the petitioners. Consent has been refused by the attorneys for the respondent. The questions of law which we desire to present to this Court are relevant to the disposition of the case, and because of the import of the case on the rights of all political parties and their membership, it may be that these questions of law will not adequately be presented by the parties herein. We summarize these questions in the ensuing discussion.

As this Court has indicated on numerous occasions, the right to form and join political parties is a right secured by the guaranty of freedom of assembly, a liberty essentially coordinate with the freedoms of speech, press and conscience. These freedoms, although embodied in the First Amendment to the Constitution, have required vigilant protection by the courts and the people against those who would trample upon them.

The passage of the Alien and Sedition Acts of 1798 (only seven years after the adoption of the Bill of Rights) by a government then in control of the Federalist Party brought a crisis into the affairs of the nation which was not resolved until the defeat of that party in 1800. It is fair to say that the American Revolution was not completed until the repeal of the Alien and Sedition Acts during the presidency of Thomas Jefferson.

The laws were directed against members of an opposition political party. The Republican press, edited in many cases by Americans of foreign birth, was vigorous in its denunciation of the government and its officials. In 1797

and 1798, largely as a result of the XYZ incident, members of the Federalist Party were clamoring for war with France. The Federalists maintained that the French Government was spreading propaganda in America through paid agents (Cushman, R. E., "Alien and Sedition Acts" in Encyclopedia of the Social Sciences, vol. 1, p. 635, note 1); that revolutionary doctrines were being spread by foreigners (Chafee, Z., Freedom of Speech, 1920, p. 29); and that action was necessary if the country was to avoid "the spectacle of the disastrous operation of those doctrines abroad" (Chafee, Z., *supra*, p. 29, note 11).

To meet this apparent crisis, the Alien and Sedition Acts were passed. The first prosecution under the Sedition Act was against a Republican member of Congress running for reelection and all subsequent victims were Republicans. All individuals who espoused the cause of Republicanism were vigorously prosecuted (Anderson, F. M., The Enforcement of the Alien and Sedition Laws in American Historical Association, Annual Reports, 1912).

Jefferson and Madison led the people in their struggle against the Alien and Sedition Acts. Together they planned the introduction of resolutions in the Kentucky and Virginia legislatures. These were the famous Kentucky and Virginia Resolutions. We quote here one excerpt from Madison's report in the Virginia Resolution because it applied so appropriately to the issues involved in this proceeding:

> "Let it be recollected, lastly, that the Right of electing the members of the government constitutes more particularly the essence of a free and responsible government. The value and efficacy of this Right, depends on the Knowledge of the comparative merits and demerits of the candidates for public trust; and

on the equal freedom, consequently, of examining and discussing these merits and demerits of the candidates respectively. It has been seen that a number of important elections will take place while the act is in force. Should these happen, then, as is extremely probable in relation to some one or other of the branches of government, to be competition between those who are, and those who are not members of the government, what will be the situation of the competitors? Not equal; because the characters of the former will be covered by the 'Sedition Act' from animadversions exposing them to disrepute amongst the people; whilst the latter may be exposed to the contempt and hatred of the people, without a violation of the act. What will be the situation of the people? Not free; because they will be compelled to make their election between competitors whose pretensions they are not permitted by the act equally to examine, to discuss, and to ascertain. And from both these situations will not those in power derive an undue advantage for continuing themselves in it; which by impairing the Right of election; endangers the blessings of the government founded on it."

Elliot's Debates, Vol. IV, p. 276.

The whole episode of the Alien and Sedition Acts burned itself indelibly into the American mind and tradition. This Court has constantly held that the right to talk politics, to think politics, and to join political parties is absolutely free from governmental abridgement, direct or indirect. It has held that it is imperative "to preserve inviolate the constitutional rights of free speech, free press and free assembly in order to maintain the opportunity for free political discussion, to the end that government may be responsive to the will of the people and that changes, if desired, may be obtained by peaceful means.

Therein lies the security of the Republic, the very foundation of constitutional government" (*De Jonge v. Oregon*, 299 U. S. 353, 365).

For the aforesaid reasons we respectfully urge that this motion be granted, and that upon rehearing a decision be rendered which will advise the people that their right to belong to political parties is entirely free from governmental intrusion.

Respectfully submitted,

Signed

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